

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

2. Plaintiffs acknowledge that a dismissal of an action requesting class action status may not be obtained without court approval, and thus, they respectfully request permission from the Court to voluntarily dismiss this action. Approval should be readily given in this particular case for the following reasons:

- (a) whether to permit Plaintiffs to dismiss a defendant without prejudice is a matter within the district court's discretion. *Tolle v. Carroll Touch, Inc.*, 23 F.3d 174, 177 (7th Cir. 1994). The Court should grant Plaintiffs' motion to voluntarily dismiss under Rule 41(a)(2) without prejudice, unless it would cause substantial prejudice to the defendant. *Ohlander v. Larsen*, 114 F.3d 1531, 1537 (10th Cir. 1997);
 - (b) no class has been certified in this action;
 - (c) "The purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced." *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987). If allowed, the voluntary dismissal would not bar any future claims against the defendants by putative class members, so that is not a concern.
3. A proposed Order of voluntary dismissal is being filed with this Notice.

WHEREFORE, Plaintiffs hereby give this Notice of Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(i), without prejudice to refiling of same.

Respectfully submitted this 4th day of May, 2006.

/s/ Gordon Ball

Gordon Ball,
Tenn. BPR # 001135
Ball & Scott
550 W. Main Ave., Suite 750
Knoxville, TN 37902
(865) 525-7028

CERTIFICATE OF SERVICE

I, Gordon Ball, do hereby certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

This 4th day of May, 2006.

/s/ Gordon Ball
Gordon Ball